

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

EARTHSTONE INTERNATIONAL LLC,

Plaintiff and Counter-  
Defendant,

v.

FREDERICK HART CO., INC., d/b/a  
COMPAC INDUSTRIES, INC.,

Defendant and Counter-  
Plaintiff.

Case No. 1:13-CV-00634-KJG-KBM

JURY TRIAL DEMANDED

**SCHEDULING ORDER**

In accordance with the Civil Justice Expense and Delay Reduction Plan adopted in compliance with the Civil Justice Reform Act, and pursuant to Title 28 U.S.C. § 473(a)(1), this case is assigned to a **COMPLEX** track classification. Having given due consideration to the parties' joint proposal set forth in the Joint Status Report, the Court adopts the following discovery plan with the understanding that the final seven deadlines (accompanied by an asterisk) are merely suggested trial-related deadlines for the presiding trial judge's consideration:

<b><u>Action</u></b>	<b><u>Deadline</u></b>
Participate in Rule 26(f) Conference	February 24, 2014
Exchange Initial Disclosures under Rule 26(a)(1)	March 03, 2014
File Rule 26(f) Report	March 03, 2014

Serve Infringement Contentions <sup>1</sup>	May 2, 2014
Deadline to File Motions to Join Other Parties or Amend Pleadings	May 30, 2014
Serve Invalidity Contentions	June 18, 2014
Simultaneous Exchange of Claim Term Identifications and Proposed Constructions	September 3, 2014
Simultaneous Exchange of Proposed Construction of Claim Terms Identified by the Opponent	September 17, 2014
File Joint Claim Construction and Prehearing Statement	October 1, 2014
Close of Claim Construction Discovery	November 5, 2014
Both parties file Simultaneous Opening Claim Construction Briefs	November 19, 2014
Both parties file Simultaneous Responsive Claim Construction Briefs	December 17, 2014
<u>Markman</u> Claims Construction Hearing	On or about January 21, 2015
Deadline to Complete Fact Discovery	June 17, 2015
Serve Opening Burden-of-Proof Expert Reports	July 29, 2015
Serve Rebuttal Expert Reports	August 28, 2015
Deadline to Complete Expert Discovery	September 30, 2015
File Opening Summary Judgment and <i>Daubert</i> Motions	October 28, 2015
File Oppositions to Summary Judgment and <i>Daubert</i> Motions	November 18, 2015
File Reply Summary Judgment and <i>Daubert</i> Motions	December 2, 2015
File and Exchange Pretrial Disclosures under FRCP 26(a)(3) [witness list; deposition designations; exhibits]	January 20, 2016 *
File Motions in Limine	January 20, 2016 *

<sup>1</sup> The Patent Disclosures set forth herein shall be made in accordance with the Patent Rules of the Northern District of California. See <http://www.cand.uscourts.gov/localrules/patent>.

File and Exchange any Objections to Depositions and any Deposition Counter-Designations and any Objections to Exhibits	February 3, 2016 *
File Oppositions to Motions in Limine	February 3, 2016 *
Deadline for Parties to Exchange and Mark all Exhibits	February 8, 2016 *
File Pretrial Briefs accompanied by Requested Voir Dire Questions and Jury Instructions (only portions of filing to be served on opposing counsel)	February 16, 2016 *
Jury Selection followed by Trial	February 23, 2016 *

The discovery deadlines set forth above shall not be reopened, nor shall case management deadlines be modified, except by an order of the Court upon a showing of good cause. These deadlines shall be construed to require that identified discovery be completed on or before the above date. Service of interrogatories or requests for production shall be considered timely only if the responses are due prior to the deadline. A notice to take deposition shall be considered timely only if the deposition takes place prior to the deadline. The pendency of dispositive motions shall not stay discovery.

Motion practice, including the timing of responses and replies, shall be conducted in compliance with the requirements set forth in D.N.M.LR-Civ. 7. None of the above deadlines are intended to extend the twenty-one (21) day time limit in D.N.M.LR-Civ. 26.6. Any pretrial motions filed after the above dates shall, in the discretion of the Court, be considered untimely. If documents are attached as exhibits to motions, affidavits or briefs, those parts of the exhibits that counsel want to bring to the attention of the Court must be highlighted in accordance with D.N.M.LR-Civ. 10.6.

Deadlines for filing a consolidated final Pretrial Order will be established by the trial judge. The Pretrial Order will provide that no witnesses except rebuttal witnesses whose testimony cannot be anticipated, will be permitted to testify unless the name of the witness is

furnished to the Court and opposing counsel no later than thirty (30) days prior to the time set for trial. Any exceptions thereto must be upon order of the Court for good cause shown.

IT IS SO ORDERED.

DATE: March 13, 2014.

  
UNITED STATES CHIEF MAGISTRATE JUDGE